

### **3.08.00.00 – PREREQUISITES FOR RIGHT OF WAY ACTIVITIES**

#### **3.08.01.00 Preliminary Right of Way Activities – Defined**

Preliminary R/W Activities are defined as those R/W activities that occur after the project is programmed, and are typically charged as R/W support to the project's Phase 2 expenditure authorization. These activities include:

1. Ordering Title Reports.
2. Preparing Base Maps.
3. Preparing Appraisal Maps.
4. Conducting project-wide comparable sales searches once a preferred alternative is internally selected.
5. Assigning appraisers to specific parcels, contacting the property owners to commence appraisal activity, and completing the appraisal.

Unless the prerequisites are met, these activities shall be avoided in all cases unless prior Headquarters R/W approval has been secured in writing in accordance with the instructions found below.

#### **3.08.02.00 Prerequisites for Commencement of Preliminary Right of Way Activities**

The prerequisites for initiating preliminary right of way activity are outlined as follows:

(These requirements do not apply to hardship and protection parcels or parcels subject to Acquisition Reference File 00-1 R/W Acquisition Prior to Environmental Approval.)

1. The project must be programmed or lump sum funded, if required and a Phase "9" expenditure authorization must be approved.
2. If Federal or other public entity funds are to participate in right of way costs, right of way activities must have been authorized by FHWA (the E-76 process) and funded by the other participating entity pursuant to an executed agreement in accordance with Policy and Procedure Memorandum No. P86-1.

Other entities (city, county, etc.) may, by agreement, be committed to funding all or some right of way support and/or capital costs. It is the responsibility of the District to see that such funds are secured in accordance with the terms of the Agreement prior to initiating the applicable activities.

#### **3.08.03.00 Regular Right of Way Activities – Defined**

The following is a nonexclusive list of activities, which shall not commence prior to satisfying the above prerequisites.

1. Acquiring right of way parcels
2. Relocating Displaced Persons
3. Performing Utility Relocation activities from the request for Relocation Plans forward

Unless the prerequisites are met, these activities shall be avoided in all cases unless prior Headquarters R/W approval has been secured in writing in accordance with the instructions found in Section 3.08.04.00 or as defined in Acquisition Reference File 00-1 R/W Acquisition Prior to Environmental Approval.

### **3.08.04.00 Prerequisites for Commencement of Regular Right of Way Activities**

The prerequisites for initiating regular right of way activity are outlined as follows:

(These requirements do not apply to hardship and protection parcels or parcels subject to Acquisition Reference File 00-1 Right of Way Acquisition Prior to Environmental Approval.)

1. The project report must have been approved.
2. The project must have current final environmental clearance.

**NOTE:** As an alternative to having final environmental clearance, this requirement may be satisfied if the following three events have occurred:

- a. The draft environmental document has been circulated.
  - b. The public hearing process is complete.
  - and
  - c. A preferred alternative has been approved.
3. Freeway agreement(s), including required amendments, must have been executed if required for the project.

**NOTE:** By statute (Streets and Highways Code Section 100.21), “(a) Whenever a street or highway closing agreement is required by Section 100.2, the department shall not acquire, except by gift and except in hardship or protective cases as determined by the department or the commission, any real property for a freeway through a city until an agreement is first executed with the city council, or for a freeway through unincorporated territory in a county until an agreement is first executed with the board of supervisors. The department shall give notice to the city council or the board of supervisors, as the case may be, of any acquisition of such real property prior to the execution of an agreement.” “(b) Notwithstanding subdivision (a), a city council may, by resolution authorize the purchase of rights of way prior to approval of an agreement if the purchase is limited to the main line corridor of the proposed freeway and the alignment of the freeway is not at issue.” (Direct quote from the Statute)

Current final environmental clearance means:

- a. An approved determination that the project is categorically exempt under CEQA, and if there is Federal participation in any part of the project, FHWA concurrence in a determination that the project is a categorical exclusion under NEPA.
- or
- b. Final environmental documents (Environmental Impact Report [EIR], Environmental Impact Statement [EIS], Negative Declaration [ND], Environmental Assessment [EA]) have been prepared and approved, and, under NEPA, a Finding of No Significant Impact (FONS1) or a Record of Decision (ROD) has been completed and signed, and, under CEQA, a Notice of Determination (NOD) has been filed with the Office of Planning and Research.
- and
- c. When required pursuant to the Environmental Handbook, an Environmental Reevaluation has been prepared and approved.